

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DEVONTAY AYCOCK,

Petitioner,

v.

ELY STATE PRISON,

Respondents.

Case No. 3:23-cv-00079-ART-CSD

ORDER

This habeas matter is before the Court on Petitioner Devontay Aycock's Motion for Leave to File Second Amended Petition (ECF No. 19). Respondents do not oppose Plaintiff's Motion. ECF No. 23. Also before the Court is Respondents' Motion for Enlargement of Time (ECF No. 24).

In February 2023, Aycock initiated this federal habeas corpus proceeding. ECF No. 1-1. Following the appointment of counsel, Aycock filed his first amended petition as a protective petition to ensure all possible claims were timely preserved for federal review. ECF No. 18. Aycock requests leave to file a second amended petition that reflects counsel's thorough review, research, and investigation. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure and the Scheduling Order (ECF No. 15), the Court finds that leave to amend is appropriate.

Respondents seek an extension of time to file their response to Aycock's first amended petition. The Court finds the request is made in good faith and not solely for the purpose of delay, and therefore good cause exists to grant the motion.

**IT THEREFORE IS ORDERED:**

1. Petitioner Devontay Aycock's Motion for Leave to File Second Amended Petition (ECF No. 19) is granted.

2. Respondents' Motion for Enlargement of Time (ECF No. 24) is granted.
3. Petitioner will have until August 22, 2024, to file his second amended petition. This deadline and any extension thereof may not be construed as implied findings regarding the federal limitation period or a basis for tolling. Petitioner at all times remains responsible for calculating the running of the federal limitation period and timely asserting claims, without regard to any court-ordered deadlines or extensions. Thus, a petition or amended petition filed within a court-ordered deadline may still be dismissed as untimely if it violates the statute of limitations. See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).
4. All other instructions and deadlines stated in the Scheduling Order (ECF No. 15) remain in effect.

Dated this 31<sup>st</sup> day of May 2024.



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ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE